

February 18, 2014

**CASES**

2                    No. 9  
In the Matter of Baldwin Union Free School  
District, et al.,  
                    Respondents,  
                    v.  
County of Nassau,  
                    Appellant.  
(And an Action and Another Proceeding.)

Order affirmed, with costs.  
Opinion by Judge Abdus-Salaam.  
Chief Judge Lippman and Judges Graffeo, Read,  
Smith, Pigott and Rivera concur.

1                    No. 21  
Country-Wide Insurance Company,  
                    Appellant,  
                    v.  
Preferred Trucking Services Corp., et al.,  
                    Defendants,  
Filippo Gallina, et al.,  
                    Respondents.

Order reversed, with costs, and judgment granted  
declaring in accordance with the opinion herein.  
Opinion by Judge Pigott.  
Chief Judge Lippman and Judges Graffeo, Read,  
Smith and Rivera concur.  
Judge Abdus-Salaam took no part.

3                    No. 26  
In the Matter of John Gaied,  
                    Appellant,  
                    v.  
New York State Tax Appeals Tribunal, et al.,  
                    Respondents.

Judgment reversed, with costs, and matter remitted to  
the Appellate Division, Third Department, with  
directions to remand to respondent New York State  
Tax Appeals Tribunal for further proceedings in  
accordance with the opinion herein.  
Opinion by Judge Pigott.  
Chief Judge Lippman and Judges Graffeo, Read,  
Smith, Rivera and Abdus-Salaam concur.

1                    No. 6  
K2 Investment Group, LLC, et al.,  
    Respondents-Appellants,  
    v.  
American Guarantee & Liability Insurance  
Company,  
    Appellant-Respondent.

Upon reargument, this Court's decision of June 11, 2013 vacated, the remittitur recalled, order appealed from reversed, with costs, and plaintiffs' motion for summary judgment on their first and second causes of action seeking to enforce the default judgment in the underlying action denied.  
Opinion by Judge Smith.  
Chief Judge Lippman and Judges Read and Rivera concur.  
Judge Graffeo dissents and votes to affirm the order appealed from in an opinion in which Judge Pigott concurs.  
Judge Abdus-Salaam took no part.

1                    No. 13  
The People &c.,  
    Respondent,  
    v.  
Christopher Martinez,  
    Appellant.

Order affirmed.  
Opinion by Judge Read.  
Judges Graffeo, Smith and Pigott concur.  
Chief Judge Lippman dissents and votes to reverse in an opinion in which Judges Rivera and Abdus-Salaam concur.

1                    No. 14  
The People &c.,  
    Respondent,  
    v.  
Selbin Martinez,  
    Appellant.

Order affirmed.  
Opinion by Judge Read.  
Judges Graffeo, Smith and Pigott concur.  
Chief Judge Lippman concurs in result in a separate opinion in which Judges Rivera and Abdus-Salaam concur.

1                    No. 90 SSM 2  
In the Matter of McIver-Morgan, Inc.,  
                  Respondent,  
          v.  
Christopher Dal Piaz, et al.,  
                  Appellants.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and the certified question not answered upon the ground that it is unnecessary. The Appellate Division correctly determined that vacatur of the arbitration award would require an impermissible fact-intensive review by the courts.  
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Abdus-Salaam concur.  
Judge Rivera took no part.

1                    No. 25  
QBE Insurance Corporation,  
                  Respondent,  
          v.  
Jinx-Proof Inc., Doing Business as Beauty  
Bar,  
                  Appellant,  
Vera Hendrix, et al.,  
                  Defendants.

Order affirmed, with costs, and certified question answered in the affirmative, in a memorandum. Judges Graffeo, Read, Smith, Rivera and Abdus-Salaam concur.  
Judge Pigott dissents and votes to reverse in an opinion in which Chief Judge Lippman concurs.

No. 92

Tire Engineering and Distribution L.L.C., et  
al.,

Appellants,

Bcatco A.R.L.,

Plaintiff,

v.

Bank of China Limited,

Respondent.

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Motorola Credit Corporation,  
Appellant-Respondent,

Nokia Corporation,  
Plaintiff-Counter-  
Defendant,

Motorola, Inc., et al.,  
Counter Defendants.

v.

Standard Chartered Bank,  
Respondent-Appellant,

Murat Hakan Uzan, et al.,  
Defendants-Counter-  
Claimants,

Kemal Uzan, et al.,  
Defendants.

Certification of questions by the United States Court  
of Appeals for the Second Circuit, pursuant to section  
500.27 of this Court's Rules of Practice, accepted and  
the issues presented are to be considered after  
briefing and argument.

Chief Judge Lippman and Judges Graffeo, Read,  
Smith, Pigott, Rivera and Abdus-Salaam concur.

## MOTIONS

4 Mo. No. 2013-1268  
In the Matter of Anthony Amaker,  
Appellant,  
v.  
Brian Fischer, &c.,  
Respondent.

Motion for leave to appeal denied.

2 SSD 1  
Bradford Applegate,  
Appellant,  
v.  
State of New York,  
Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

1 Mo. No. 2013-1291  
Elizabeth Berardi,  
Appellant,  
v.  
Eugene Berardi, et al.,  
Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2013-1233  
Amy Chin,  
Appellant,  
v.  
New York City Housing Authority,  
Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

Mo. No. 2014-10  
In the Matter of Margaret L. Donovan, &c.,  
Appellant,  
v.  
Judge Warren P. Hauben, &c.,  
Respondent.

Motion for reargument of motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

3                    Mo. No. 2013-1279  
In the Matter of Jill A. Dunn, An Attorney.

Committee on Professional Standards,  
Respondent;  
Jill A. Dunn,  
Appellant.

Motion for leave to appeal granted.

4                    Mo. No. 2013-1277  
Electrical Waste Recycling Group, Limited,  
Respondent,  
v.  
Andela Tool & Machine, Inc., &c.,  
Appellant.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the action within the meaning of the Constitution.

1                    Mo. No. 2013-1283  
David H. Engelke,  
Appellant,  
v.  
Brown Rudnick Berlack Israels LLP,  
Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2013-1278  
In the Matter of Paulet Facey,  
Appellant,  
v.  
New York City Department of Education,  
Respondent.

Motion for leave to appeal denied.  
Judge Abdus-Salaam took no part.

3                    SSD 7  
In the Matter of Patrick Guillory,  
                         Appellant,  
                         v.  
Brian Fischer, as Commissioner of  
Corrections and Community Supervision,  
                         Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

                         SSD 8  
John Hemphill,  
                         Appellant,  
                         v.  
State of New York,  
                         Respondent.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, Third Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).

1                    Mo. No. 2013-1275  
Anthony Jackson,  
                         Appellant,  
                         v.  
State of New York,  
                         Respondent.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the action within the meaning of the Constitution.  
Motion for poor person relief dismissed as academic.

3                    Mo. No. 2013-1251  
The People &c. ex rel. John D. Justice,  
                         Appellant,  
                         v.  
Steven Racette, &c., et al.,  
                         Respondents.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

3                    Mo. No. 2013-1193  
In the Matter of Board of Education of the  
Kiryas Joel Village Union Free School  
District, et al.,  
                  Appellants,  
          v.  
State of New York, et al.,  
                  Respondents.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.

1                    Mo. No. 2013-1290  
The People &c. ex rel. Ronald L. Kuby, on  
behalf of Gigi Jordan,  
                  Appellant,  
          v.  
Rose Agro, &c.,  
                  Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2013-1261  
Lloyd Macklowe, et al.,  
                  Respondents,  
          v.  
Trustees of Freeholders and Commonality of  
Town of East Hampton, et al.,  
                  Appellants.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.

2                    Mo. No. 2013-1227  
Nella Manko,  
    Appellant,  
    v.  
Elton Strauss, &c., et al.,  
    Respondents,  
et al.,  
    Defendants.

Motion, insofar as it seeks leave to appeal from the August 2012 Appellate Division order, dismissed upon the ground that it does not lie, appellant having previously moved in the Court of Appeals for leave to appeal (21 NY3d 898 [2013]) from the same Appellate Division order (see Selinger v Selinger, 90 NY2d 842 [1997]); motion for leave to appeal otherwise dismissed upon the ground that the other orders sought to be appealed from do not finally determine the action within the meaning of the Constitution.  
Motion for poor person relief dismissed as academic.

1                    Mo. No. 2013-1274  
Dennis Obado,  
    Appellant,  
    v.  
Manchanda Law Firm PLLC et al.,  
    Respondents.

Motion for leave to appeal from the order of the Appellate Division dismissed upon the ground that this Court does not have jurisdiction to entertain the motion for leave to appeal from the order of the Appellate Division entered in this action commenced in Civil Court (see NY Const, art VI § 3[b][7]; CPLR 5602[a]).

1                    Mo. No. 2013-1272  
Alastair Onglingswan,  
    Appellant,  
    v.  
Chase Home Finance, LLC,  
et al.,  
    Defendants,  
Adam Plotch, et al.,  
    Respondents.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the action within the meaning of the Constitution.  
Judge Abdus-Salaam took no part.

2                    Mo. No. 2013-1281  
The People &c.,  
    Respondent,  
    v.  
Walter Pendleton,  
    Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

                      Mo. No. 2013-1262  
Bernarda Perez, et al.,  
    Appellants,  
    v.  
Keith Edwards, M.D.,  
    Respondent,  
et al.,  
    Defendant.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.

4                    Mo. No. 2013-1258  
The People &c.,  
    Respondent,  
    v.  
William Pichcuskie,  
    Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2013-1276  
Leonel Antonio Pinto,  
    Respondent,  
    v.  
Andrew Gormally, et al.,  
    Defendants,  
1432 Doris Street, LLC, &c.,  
    Appellant.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.

4 Mo. No. 2013-1269  
Andrew Prestigiacomio,  
Appellant,  
v.  
June N. Ames, et al.,  
Defendants,  
Barbara Springer, et al.,  
Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

4 Mo. No. 2013-1264  
The People &c.,  
Respondent,  
v.  
Lashawn J. Scott,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2013-1260  
Christopher Selletti,  
Defendant,  
v.  
Thomas F. Liotti,  
Appellant;  
Jeffrey Levitt,  
Nonparty-Appellant.

Motion for reargument of motion for leave to appeal denied.